

May 2, 1996

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON

700 Central Building  
810 Third Avenue  
Seattle, Washington 98104

REPORT AND DECISION ON AN APPEAL FROM NOTICE AND ORDER

SUBJECT: Department of Development and Environmental Services File No. E9501407

ROBERT HAYES/PRITCHARD BROTHERS  
Code Enforcement Appeal

Appellants: Robert Hayes  
18126 - 196th Avenue SE  
Renton, WA 98058  
  
Pritchard Brothers  
28313 Redondo Way South, #202  
Redondo, WA 98003

Property located at 18120 - 196th Avenue SE, Renton

PRELIMINARY REPORT:

The Report on the above-referenced appeal was received by the Examiner on March 25, 1996.

PUBLIC HEARING:

After reviewing the Report of the Department of Development and Environmental Services and examining available information on file with the appeal, the Examiner conducted a public hearing on the appeal as follows:

The appeal hearing on Item No. E9501407 was opened by the Examiner at 1:30 p.m., April 8, 1996, in Room No. 2, Department of Development and Environmental Services, 3600 - 136th Place S.E., Suite A, Bellevue, Washington, and closed at 3:25 p.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On February 26, 1996, the Department of Development and Environmental Services (hereinafter, the "Department") served upon Pritchard Brothers and Robert Hayes (the "Appellants") a Notice and Order concerning residential occupancies on the subject property. The Notice and Order (Exhibit No. 2) cites KCC 16.04 and Chapter 8, Uniform Housing Code (UHC), Sections 1001.B.6, -.B.13, -.C.2, -.C.8, -.E, -.H.2, 503, and 504.D as the authority for requiring repair/renovation or vacation of an occupied sub-standard house and vacation of four travel trailers from the property.

The order to repair or vacate the occupied sub-standard house is based upon these findings of the Department:

- a. Lack of adequate heating facilities;
- b. Hazardous electrical wiring;
- c. Defective/deteriorating flooring and supports in laundry room;
- d. Inadequate maintenance of bathroom facilities;
- e. Deteriorated/ineffective waterproofing of roof over enclosed porch area off the kitchen;
- f. Malfunctioning pellet stove in living/dining room area;
- g. Unusual fireplace as a source of heat due to deterioration.

In addition, the travel trailers on the subject property are ordered to be removed because their occupancy does not meet the space and occupancy standards of the Uniform Housing Code for dwelling units, including room dimensions, light, ventilation and sanitation.

2. The above-identified Appellants filed their appeal on February 27, 1996. Regarding the house on the property, the Appellants respond:
  - a. The house is served with a modern pellet stove rated to heat adequately all portions of the house.
  - b. The "inadequately maintained bathroom facilities" have been damaged by tenants, but will be repaired.
  - c. Water stains in the porch pre-date roof repairs. The roof no longer leaks.
  - d. The pellet stove does not malfunction.
  - e. A fireplace is not a required amenity in a house, nor is it a true source of heat. The chimney cannot be repaired until there are funds available to re-roof the residence.

Regarding occupancy of the travel trailers, the Appellants argue that the property is "agricultural" and that living in travel trailers or mobile homes on an agricultural property is common throughout rural King County. Consequently, the Appellant argues that any attempt to enforce the strict letter of the Building Code against this property without uniformly enforcing the code throughout rural King County would be discriminatory and an illegal use of the police powers of the County. The Appellants also argue that requiring the mobile home or travel trailers to vacate the premises would cause more harm than good.

3. Although the subject property comprises approximately 54 acres, the structures at issue are all clustered closely together near an entrance driveway which provides access to 196th Avenue SE. The house and the travel trailers are all located on a single lot. Although having several "dwelling units" on one lot conflicts with the County zoning and subdivision codes, the property owners have not been cited for those violations.
4. The house is vacant. The Appellants, at least for now, are not offering the house for rent.
5. There is considerable disagreement in the hearing record regarding the relevant facts and circumstances regarding the property. There is testimony that the porch leaks and testimony that it does not; testimony that the pellet stove adequately heats the house, testimony that it does not; and so on.

Regarding the occupancy of travel trailers on the property, however, the essential facts are agreed upon: There are four travel trailers on the property and each is occupied.

6. Having had opportunity to review the evidence and testimony of record, the Department asks that the appeal be denied; that all repairs be required to be made to the house before it is permitted to be reoccupied; and, that the travel trailers be removed from the property.

7. The preponderance of evidence regarding the pellet stove supports the Appellants' contentions. The stove is designed to heat 2,000 square feet and it is properly installed. However, it has not been properly maintained per manufacturer's recommendations.

#### CONCLUSIONS:

1. Fortunately, the house on the property remains unoccupied. With the exception of the pellet stove which has been privately inspected and found adequate (see Finding No. 7 above), the Department's interpretations of its own regulations with respect to sub-standard conditions within the house will be given substantial weight. Consequently, the Order which follows below prohibits any new occupancy of the house until it has passed King County inspection. In deference to the Appellants' position, however, the Order which follows below provides for no civil penalties regarding the house. Consequently, if the house becomes reoccupied without County approval, the Department must serve a new Notice and Order, rather than assess civil penalties on the basis of this one.
2. Regarding the four occupied travel trailers on the property, the evidence is uncontroverted. They are there and they are inhabited. Argument presented by the Appellants cannot be used to justify disregard for the regulations which prohibit these circumstances from occurring. Due to the funding level available to the Department, its code enforcement program is not pro-active; instead, each case is complaint-triggered. There is no evidence in this hearing record that any complaints regarding other travel trailers have been treated differently than the complaint(s) regarding the subject property. In any event, laxity of enforcement as to some cannot be used as a defense against enforcement upon others. Consequently, compliance with applicable regulations regarding the travel trailers must be achieved in a timely manner, as provided by the Order which follows below.

If travel trailer occupancy is a necessity of agricultural land ownership, then the proper solution must be for the County Council to authorize it, not for the Department to wink at it when complaints are filed.

#### DECISION AND ORDER:

1. The four travel trailers on the subject property shall be vacated and removed from the subject property not later than September 2, 1996 or the Appellants shall incur civil penalties as described in the Department's February 13, 1996 Notice and Order.
2. The vacant house on the subject property shall remain vacant until it has passed King County "occupancy" or "minimum housing code" inspection. However, no occupancy permit fee shall be charged for this inspection. If the house is reoccupied without said inspection approval, then the Department may issue and serve upon the responsible parties (per KCC Title 23) a new Notice and Order.

Prior to occupancy, the Appellants shall request the required occupancy or minimum housing code inspection, which shall be conducted by the assigned Code Enforcement Officer.

3. Nothing in this order shall be construed as precluding the Department or Prosecuting Attorney from taking any other action provided by law.

ORDERED this 2nd day of May, 1996.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 2nd day of May, 1996, to the following parties and interested persons:

R. Drake Bozarth  
Attorney At Law  
83 South King Street, #715  
Seattle, WA 98104

Christopher Dale  
1809 - 96th Avenue NE  
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Leona Hatcher  
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Robert Hayes  
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Pritchard Brothers  
28313 Redondo Way S., #202  
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James Pritchard  
19720 SE 185th Place  
Renton, WA 98058

Ken Dinsmore, DDES/Bldg. Services Division, Code Enforcement  
Betty Salvati, DDES/Bldg. Services Division, Code Enforcement

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless a person with standing commences a proceeding for review pursuant to the Land Use Petition Act by filing a petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE APRIL 8, 1996 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT  
AND ENVIRONMENTAL SERVICES FILE NO. E9501407:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Betty Salvati, Drake Bozarth, James Pritchard, Robert Hayes, Christopher Dale, and Leona Hatcher.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the April 8, 1996 public hearing
Exhibit No. 2	Copy of February 13, 1996 Notice & Order and certified mail receipt card
Exhibit No. 3	Copy of appeal letter from R. Drake Bozarth, received by Code Enforcement on February 27, 1996
Exhibit No. 4	Copy of Kroll map, page 829W
Exhibit No. 5	Copy of Notice of Violation, dated December 19, 1995; and letter sent to the Pritchard Brothers and Robert Hayes, dated December 22, 1995
Exhibit No. 6	Copy of updated Notice of Violation as of January 31, 1996
Exhibit No. 7	Copy of posting, dated February 20, 1996
Exhibit No. 8	Copy of Chapter 7, Uniform Housing Code, 1991 edition
Exhibit No. 9	Copy of KCC 21A.06.345
Exhibit No. 10	Copy of KCC 21A.06.960, KCC 21A.06.160 and KCC 21A.06.965
Exhibit No. 11	Four pages of photos of travel trailers on site, taken April 4, 1996, by Betty Salvati
Exhibit No. 12	Not admitted
Exhibit No. 13	Two photos of house exterior taken by Betty Salvati; Assessor's Office computer print-out
Exhibit No. 14	Floor plan of house; brochure on pellet stove; report on pellet stove dated April 1, 1996
Exhibit No. 15	33 photos taken by Robert Hayes showing inhabited travel trailers in 10-mile radius of subject site

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